

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF INTERIOR, BUREAU OF INDIAN EDUCATION AND
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,
INDIAN HEALTH SERVICE
FOR
INDIAN CHILDREN WITH DISABILITIES**

I. Purpose

This Agreement sets forth the terms and conditions for meeting the statutory requirements of the Individuals with Disability Education Act (IDEA) of 2004, Public Law 108-446, 20 U.S.C. 1400 et. seq.

To the extent that funds and resources are available, the Indian Health Service (IHS) and the Bureau of Indian Education (BIE) will coordinate services, resources, and personnel between their respective national and local offices and with state and local education agencies and other entities to facilitate the provision of a free appropriate public education to Indian children with disabilities residing on or near reservations. 20 U.S.C. 1411(h)(2)(E).

The intent of this national agreement is to establish a partnership between the IHS and the BIE that will facilitate local IHS – BIE collaboration in the delivery of appropriate coordinated services for Indian children with disabilities enrolled in Bureau funded schools.

This Agreement is intended to provide a basic overview of the partnership between the IHS and the BIE. Actual services to be provided by the IHS and the BIE will be negotiated at the local level and will vary depending upon funding and resources available and the funding priorities of the individual service units and BIE field offices.

II. Authority

This Agreement is made under the authority of the Snyder Act of 1921, 25 U.S.C. 13; the Economy Act of 1932, 31 U.S.C. §1535, and the Individuals with Disability Education Act (IDEA) of 2004, P.L. 108-446, 20 U.S.C. 1400 et. seq.

III. Special Education and Related Services

Special education is defined as a specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including:

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and,

(B) instruction in physical education. 20 U.S.C. 1401(29).

Related services are transportation and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children). 20 U.S.C. 1401(26).

IV. Disability Categories

The term child with a disability means a child evaluated in accordance with IDEA with autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment including blindness, and who because of these impairments need special education and related services. 20 U.S.C. 1401(3).

V. Description of Services

The IHS and the BIE will coordinate activities where there exists an overlap in eligible populations, services and activities that shall enable an Indian child to participate successfully in schools or programs, utilizing the BIE's Coordinated Service Plan (CSP) as a guide. These activities shall provide for the apportionment of responsibilities and costs including Child Find, evaluation, diagnosis, remediation or therapeutic measures, and equipment and medical or personal supplies as needed for a child to remain in school or any program. 20 U.S.C. 1411(h)(2)(E) and 1411(h)(5).

The IHS will assist the Bureau schools and State entities to provide these services to the extent that funds and resources are available. However, the primary responsibility lies within the BIE, tribes, and States who receive funding for the provision of these services mandated by (Pub. L. 108-446, 20 U.S.C. 1400 et. seq). IHS is not receiving any additional funds to provide these services and is limited by Congressional funding.

VI. Mutual Objectives

This Agreement is based upon the legislative requirements of IDEA that the provision of a comprehensive system of coordinated services for all Indian children with disabilities be established to ensure adequate health and human services for all Indian children with disabilities residing on or near reservations. 20 U.S.C. 1411(h)(2)(E) and 1411(h)(5).

It is agreed that the parties to this Agreement will support the attainment of the following mutual objectives:

- (A) To encourage local entities to develop and implement inter/intra-agency collaborative activities and interagency agreements at the local level to address the IDEA. Both IHS and the BIE staff at the local level will be encouraged to coordinate with existing Federal, state, and tribal entities that work with Indian children and their families.
- (B) To work toward the prevention of duplication of effort.
- (C) To ensure services are cost-effective and maximize the use of all available Federal, state, and local resources.
- (D) To coordinate training activities on best practices and new Federal requirements and procedures. This includes inviting the BIE and the IHS staff to respective training opportunities as appropriate.
- (E) To support participation in and representation on the state inter/intra-agency Coordinating Councils, and other local or regional inter/intra-agency coordinating councils.
- (F) To provide service in accordance with the requirements under Part B and Part C of IDEA.

VII. Agency Responsibilities and Costs

- (A) The BIE will:

1. Ensure the availability of a free appropriate public education by acting in a service coordination role to all Indian children with disabilities (ages 4 through 21 years) (§300.101) enrolled in Bureau funded schools. This includes the provision of special education and related services in accordance with Part B of IDEA and the coordination of services for these children and their families.
2. Participate in local child find and public awareness efforts and refer children suspected of being eligible under IDEA to the local education agency (public school) for children ages 3 through 5 years of age.

3. Coordinate services, using the CSP as a reference, for all Indian children with disabilities residing on reservations where Bureau funded schools are located. This will include working with tribes, IHS, and other Federal agencies and states.
 4. Share data related to health and human services for Indian children with disabilities with the appropriate regional IHS area offices comparable to the BIE regional associate deputy directors offices in order to disseminate information to the local health facilities and schools involved.
 5. Encourage enrollment of all eligible students, particularly those students who attend Bureau funded off-reservation dormitories or boarding schools, in Medicaid, and/or the Children's Health Insurance Program (CHIP), and/or Supplemental Security Income (SSI).
- (B) The IHS will coordinate with the BIE to provide Child Find, evaluation, diagnosis, remediation, therapeutic, and other coordinated services. These services may include the following:
 1. Provide existing qualified personnel, such as pediatricians and other physicians or health care providers in conformity with the child or youth's individualized education program (IEP) or individualized family service plan (IFSP).
 2. Serve as an advocate at all levels within IHS to coordinate efforts for the rights and needs of children with disabilities in their relationship with the BIE, health departments, independent health agencies, hospitals, welfare departments, professional groups, and private practitioners as recommended in the CSP.
 3. Assist in the identification, provision, and negotiation with health resources such as professional societies, schools, health organizations, private practitioners, Title V agencies, and State Medicaid Early Periodic Screening and Diagnosis Treatment (EPSDT) activities to meet the needs of children with disabilities.
 4. Explore the feasibility of a performance indicator using the IHS Resource and Patient Management System (RPMS) and pilot data to screen children with special health care needs.
 5. Maintain sufficient contact with the BIE to enhance the inter/intra-agency liaisons at all levels that will promote the accomplishment of a service coordination system that will meet the needs of all Indian children with disabilities enrolled in Bureau funded schools.

6. Provide consultative health services to children with disabilities and provide (with parental permission or the equivalent of parental permission) a report on their findings to the school if such findings are related to the child's education.
7. Provide medical, mental, and healthcare related training to school personnel as appropriate and available.
8. Encourage enrollment of children with disabilities in Medicaid, and/or the CHIP, and/or SSI.

VIII. Property

Real property transfers between the IHS and the BIE are not allowed under this Agreement without prior written approval from the appropriate agency representative. All supply procurement or property transactions must be approved and coordinated by the appropriate agency representative. Items of equipment, which the IHS may provide to the BIE to carry out this Agreement, will remain the property of the IHS. Items of equipment, which the BIE may provide to the IHS to carry out this Agreement, will remain the property of the BIE.

IX. Health Insurance Portability & Accountability Act (HIPAA) and Privacy Act of 1974

Patient health information may be disclosed as provided by the Privacy Rule of the Health Insurance Portability & Accountability Act (HIPAA), 45 CFR Part 164.

With respect to federally funded facilities, the confidentiality of information that identifies individual persons and is exchanged pursuant to this Agreement between the IHS and the BIE is to be safeguarded in accordance with requirements contained in the HIPAA and Privacy Act of 1974, 5 U.S.C. 552a and regulations, 34 CFR Part 99 for the Family Educational Rights and Privacy Act. In addition, regulations of the Department of Health and Human Services (HHS) that implement the Privacy Act of 1974 within the IHS, 45 CFR Part 5b, are to be followed.

Information exchanged between the IHS and the BIE that indicates a diagnosis, prognosis, referral or treatment of alcohol or drug abuse is to be protected in accordance with requirements contained in the "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations issued by HHS, found at 42 CFR Part 2.

X. Duration of the Agreement

This Agreement will become effective when it is signed by the representatives of both the HHS and the Department of the Interior (DOI). It shall remain in effect until the legislation changes, or when a representative of HHS or DOI notifies the other party in writing of its intent to terminate the Agreement, or such other time as agreed to by both parties.

XI. IHS/BIE Meetings

In order to ensure that these collaborative efforts are pursued in a continuing and timely fashion, representatives of BIE and appropriate representatives of IHS will meet on an annual basis to review the activities supported by this Agreement and will share information, report on progress, and identify possible new area(s) for collaboration.

XII. Revisions to the Agreement

This Agreement will be reviewed annually and modified as needed for compliance with laws and regulations. This Agreement, or any of its specific provisions, may be revised by written approval of both parties or their respective designees.

XIII. Authorizing Signatures and Dates

For: Department of Health and Human Services

Yvette Roubideaux
Yvette Roubideaux, M.D., M.P.H.

Director
Indian Health Service

Date: 6/20/2012

For: The Department of the Interior

Darry Echo Hawk
Darry Echo Hawk
Assistant Secretary – Indian Affairs
Department of the Interior

Date: APR 18 2012